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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,235	12/16/2003	Jody Lynn Hoying	9456	6351

27752 7590 02/06/2007

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER	
BEFUMO, JENNA LEIGH	
ART UNIT	**PAPER NUMBER**
1771	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/737,235	HOYING, JODY LYNN	
	Examiner	Art Unit	
	Jenna-Leigh Befumo	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 November 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 1/07.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1 and 3 – 15 are pending.

2. The 35 USC 102 rejection over Tranfield (3,684,284) is withdrawn since Tranfield does not teach that the composite has regions of fibers extending from the surface of the nonwoven fabric in the final product.

3. The 35 USC 102 rejection to claim 14 over Provost et al. (2004/0157036) is withdrawn since Provost et al. does not teach that the first layer is relatively hydrophobic compared to the second layer.

4. The 35 USC 102 rejection to claim 14 over Sorimachi et al. et al. (5,508,080) is withdrawn since Provost et al. does not teach that the first layer is relatively hydrophobic compared to the second layer.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1, 3 – 5, 8, 12, and 15 stand rejected under 35 U.S.C. 102(e) as being anticipated by Provost et al. for the reasons of record.

7. Claims 1, 3, 6 – 10, 12, 13, and 15 stand rejected under 35 U.S.C. 102(b) as being anticipated by Sorimachi et al. for the reasons of record.

Claim Rejections - 35 USC § 103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claim 11 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Sorimachi et al. in view of Kotek et al. (6,120,718) for the reason of record.

10. Claims 1, 3 – 11, and 13 – 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hansson (6,048,600).

Hansson discloses a composite nonwoven fabric having a first and second layer where the first layer is corrugated producing a plurality of rows of mutually parallel waves having crests and troughs, wherein the crests comprise opening extending trough the crest regions (abstract). Further, the first layer is made from a hydrophobic nonwoven material (column 3, lines 25 – 30). The creation of crests reorient the fibers a direction orthogonal to the MD – CD plane of the fabric so that the fibers would extend toward both the top and bottom faces of the second layer, or the body-facing and garment facing sides of the second layer. The troughs of the corrugated fabric would comprise fibers in the MD-CD plane of the fabric. Thus, the through regions correspond to the applicant's claimed first region and the crests correspond to the applicant's claimed second region. The crest regions would form discrete regions with reoriented fibers, wherein the region has a linear orientation and a longitudinal axis. The second layer of the composite can be made from a plastic net, perforated film, hydrophilic nonwoven or a hydrophobic nonwoven with sufficient open area (column 3, lines 55 – 60).

However, Hansson fails to teach that the nonwoven fabric is made from a randomly oriented nonwoven fabric. One of ordinary skill in the art would know that randomly oriented fabrics provided uniform strength and stability properties in all directions. Further, it is well known that materials such as spunbond or meltblown fabrics which are readily available and provide good strength properties are randomly oriented. Thus, one of ordinary skill in the art

would choose randomly oriented materials as the top sheet of the product taught by Hansson because the randomly oriented fabrics have improved strength and stability properties. Thus, claims 1, 3 – 6, 8, 13, 14, and 15 are anticipated. It is noted that the claims reciting that the material is used as a topsheet, wipe, or absorbent article are not given weight with respect to the claimed product because a recitation of how a product is used does not change the structure of the product itself. Therefore, these limitations do not add any structural limitations to the claimed product.

While Hansson discloses that the top layer can be a nonwoven hydrophobic material, Hansson fails to teach using specific types of fibers in the nonwoven material. However, it would have been obvious to one having ordinary skill in the art to choose known hydrophobic fiber materials such as polyester, polyethylene, or polypropylene fibers, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. Further, it would have been obvious to one having ordinary skill in the art to choose bicomponent fibers or non-round fibers depending on the end-use of the product and the properties required for said end-use. Thus, claims 7 and 9 – 11 are rejected.

Double Patenting

11. Claims 1 and 3 – 15 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 27 of copending Application No. 10/737,306 for the reasons of record.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

12. Claims 1 and 3 – 15 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 21 of U.S. patent 7,172,801 (formerly Application No. 10/737,307) for the reasons of record.

US Application 10/737,307 been allowed and is now patent No. 7,172,801. Thus, the rejection has been changed to reflect the most recent status of the application and is no longer a provisional rejection.

13. Claims 1 and 3 – 15 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 20 of copending Application No. 10/737,430 for the reasons of record.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

14. Claims 1 and 3 – 15 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 44 of copending Application No. 10/737,640 for the reasons of record.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

15. Claims 1 and 3 – 15 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 25 of copending Application No. 11/156,020 for the reasons of record.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

16. Applicant's arguments filed November 8, 2006 have been fully considered but they are not persuasive. The applicant argues that Provost et al. and Sorimachi et al. fail to teach a discrete region with a distinct linear orientation and a longitudinal axis (response, pages 3 – 11). First it is noted that the applicant is arguing that the component with the linear orientation must also create the longitudinal axis in the MD-CD plane. However, these are listed as two separate features. The claim does not require that the linear orientation forms a longitudinal axis and the linear orientation is within the MD-CD plane of the fabric. Thus, the vertically oriented fibers would meet the limitation as claimed.

Further, it is noted that the linear orientation and the longitudinal axis terms define imaginary lines which can be mapped onto the fabric. There are no specific length requirements for the lines. And other than the limitation that the longitudinal axis is within the MD-DC plane there are no directional limitations for these lines.

The applicant argues that the circular tufts of Sorimachi et al. and Provost et al. can't have a linear orientation. However, as set forth above the claimed linear orientation is not excluded from being in the vertical direction. Thus, the limitation is taught by Provost et al. and Sorimachi et al.

Further, the applicant argues that the circular tufts cannot have a longitudinal axis. Longitude is interpreted as being one direction of a coordinate system, which in this case has to be in MD-CD plane of the web. Any shape with at least two dimensions, such as a height and a width, can be defined by a coordinate system and either of those directions of the coordinate system can be the longitudinal directions. The height and width, or longitudinal directions, are relative terms defined based on the desired coordinate system. Thus, the longitudinal axis can be

define any dimension of the base of the circular tuft. And, any distance larger than a point can have a longitudinal axis mapped onto the shape. For example, in Provost et al., if the machine direction is considered the longitudinal direction, then longitudinal axis would be the diameter of the circle running parallel to the longitudinal direction of the fabric. Therefore, the rejection is maintained because the circular indentions produced by Provost et al. and Soramachi et al.

The applicant's argues that this limitation excludes circles because all points of the circle are equidistant from the center of the circle. However, these arguments are not commensurate in scope with the claimed structure. There is nothing within the definition of linear or longitudinal that exclude specific shapes from being given a linear orientation or a longitudinal axis. The applicant is improperly reading limitations from the specification into the claims. These features are imaginary lines mapped onto a surface and how the lines or axis are mapped onto the discontinuity itself is open to interpretation.

Further, when looking at Provost or Sorimachi from a larger perspective, the needled regions are needled in rows creating lines or axis running defined by multiple needled tufts, which would also produce a linear orientation and longitudinal axis which passes through the plurality of tufts themselves. Thus, the lines of tufted regions would produce a longitudinal axis which pass though all the tufts within the row of tufts. It is suggested that the applicant recite the specific structure of the discontinuity itself and not try to claim the structure by imaginary lines which can be mapped onto the discontinuity, i.e., requiring the discontinuity to be an open space free of fibers below the deformation which comprises the plurality of tufts extending from the surface of the web or by reciting that the discontinuity and deformation have an overall length and width and that the length is greater than the width. Thus, the rejections are maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jlb
January 22, 2007

missing signature

JENNA BEFUMO
PRIMARY EXAMINER